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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M No.180 of 2020
Date of Decision: 22.04.2021**

SUDESH KUMAR @ PUPPY

.....Petitioner

Vs

STATE OF PUNJAB

.....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Rajiv Joshi, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, D.A.G., Punjab.

RAJ MOHAN SINGH, J.(Oral)

The case has been taken up for hearing through video conferencing.

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.191 dated 31.10.2019, registered under Sections 21 and 22 of the NDPS Act at P.S. Adampur, District Jalandhar Rural.

As per prosecution story, 2 grams of heroin and 15 bottles of Maxx Coff-T cough syrup were recovered from the petitioner. Recovery of 2 grams of heroin is a small quantity.

Learned counsel for the petitioner submitted that the

FIR is silent with regard to batch number on all the 15 bottles of Maxx Coff-T cough syrup. No representative sample was drawn by the Magistrate after mixing the contents of all the 15 bottles so as to prepare a homogeneous mixture in one bottle. The FSL report is silent with regard to the batch number appearing on the bottle. All the 15 bottles were not subjected to FSL.

In such type of eventuality, only the contraband sent for analysis has to be taken to be the quantity of contraband. Admittedly, one bottle of cough syrup was sent for chemical analysis.

The factual position of the case could not be denied by learned State counsel except to contend that the representative sample was drawn before the Magistrate and the total quantity exceeds the commercial quantity.

In view of aforesaid position, the complicity of the petitioner viz-a-viz. quantity of the contraband recovered would remain debatable. Petitioner is in custody since 31.10.2019. After framing of charges on 16.02.2021, no prosecution witness has been examined so far.

In view of above and due to the situation arising out of COVID-19 pandemic, the trial of the case may take some time in its culmination. The petition is allowed. Petitioner is ordered to be released on bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial

Court/concerned Duty Magistrate.

Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

April 22, 2021	(RAJ MOHAN SINGH)
<i>Atik</i>	JUDGE
Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No